

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of A.R. and A.M.R., Minors.

MARQUETTE PROSECUTOR,

Petitioner-Appellee,

v

TINA WEST,

Respondent-Appellant.

UNPUBLISHED

January 17, 2003

No. 240504

Marquette Circuit Court

Family Division

LC No. 95-004618-NA

Before: Cooper, P.J., and Bandstra and Talbot, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court's order terminating her parental rights to the minor children under MCL 712A.19b(3)(a)(ii). We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Giving deference to the trial court's superior opportunity to judge the credibility of the witnesses, we find no clear error in the trial court's finding that respondent did not contact or attempt to contact the children between June 1999 and April 2001. MCR 5.974(D) and (I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The evidence established desertion for a period far greater than the ninety-one days prescribed in MCL 712A.19b(3)(a)(ii). Hence, the trial court did not clearly err in finding that the statutory ground for termination was established by clear and convincing evidence. MCR 5.974(D)(3)(c); *In re Miller, supra*.

Further, the trial court did not clearly err in terminating respondent's parental rights at the initial dispositional hearing. MCR 5.974(D); MCL 712A.19b(5). Although the trial court did not expressly refer to respondent's additional testimony at the dispositional hearing in its opinion, it articulated that it had considered all of the evidence and reviewed the exhibits. Further, the court had already stated that it would accept respondent's testimony with regard to what the children told her at a visit before the dispositional hearing. The trial court's ultimate finding that termination was in the children's best interests, although going beyond the best interests inquiry mandated by MCL 712A.19b(5), is not clearly erroneous. *In re Trejo*, 462 Mich 341, 356-357, 364; 612 NW2d 407 (2000). The record supports the trial court's determination

that placement with someone other than respondent was necessary to give the children an opportunity for stability during the remainder of their childhood.

We affirm.

/s/ Jessica R. Cooper
/s/ Richard A. Bandstra
/s/ Michael J. Talbot